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7 NORTHERN CALIFORNIA RIVER WATCH

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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
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12 NORTHERN CALIFORNIA RIVER  
WATCH, a non-profit Corporation,

Case No. C 04-4195 WHA

13 Plaintiff,

14 v.

15 CITY OF SANTA ROSA,

16 Defendant.  
17 \_\_\_\_\_/

**STIPULATION TO DISMISS WITH  
PREJUDICE PLAINTIFF'S CLAIMS  
CONCERNING SANITARY SEWER  
OVERFLOWS; ~~PROPOSED~~ ORDER  
GRANTING DISMISSAL WITH  
PREJUDICE [FRCP 41(a)(1)(ii)]**

18  
19 WHEREAS, on July 15, 2004, Northern California River Watch ("NCRW") provided  
20 the City of Santa Rosa ("City") with a Notice of Violations and Intent to File Suit ("Notice")  
21 under Clean Water Act § 505, 33 U.S.C. § 1365. The Notice at page 7 alleged that discharges  
22 from the City's collection and conveyance system violated and continue to violate both the  
23 provisions of the Clean Water Act and the City's NPDES Permit Discharge Prohibitions  
24 A(2), A(3), and A(6);

25 WHEREAS, NCRW's Notice alleged two separate types of discharges from the City's  
26 collection and conveyance system, described as follows: 1) "sanitary sewer overflows"

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28 Case No. C 04-4195 WHA  
Stipulation To Dismiss With Prejudice Plaintiff's Claims  
Concerning Sanitary Sewer Overflows; [Proposed] Order  
Granting Dismissal With Prejudice [FRCP 41(a)(1)(ii)]

1 (referred to herein as “SSOs”), which are defined for the purposes of this stipulation only, as  
2 the occasional, unintentional releases of raw sewage from the City’s collection and  
3 conveyance system to surface streets, sidewalks, storm drains, and other above-ground areas  
4 located in the vicinity of the collection and conveyance system; and 2) underground or  
5 subsurface releases of raw sewage from the City’s collection and conveyance system;

6 WHEREAS, on October 4, 2004, NCRW filed its Complaint against the City in this  
7 court, (*Northern California River Watch v. City of Santa Rosa*, Case No. C04-4195 WHA;  
8 Said Complaint incorporates by reference all of the allegations contained in NCRW’s Notice.

9 WHEREAS, on April 15, 2005, NCRW provided the City with a Supplemental Notice  
10 of Violations and Intent to File Suit Under the Clean Water Act (“Supplemental Notice”).  
11 The Supplemental Notice at pages 9-10 alleges that discharges from the City’s collection and  
12 conveyance system as described in Paragraph 2 of this Stipulation, violated and continue to  
13 violate both the Clean Water Act and the City’s NPDES Permit Discharge Prohibitions A(2),  
14 A(3), and A(6);

15 WHEREAS, NCRW and the City, through their authorized representatives and without  
16 either adjudication of NCRW’s claims or admission by the City of any alleged violation or  
17 other wrongdoing, have chosen to resolve in full by way of settlement the allegations of  
18 NCRW as set forth in the Notice, Supplemental Notice, and Complaint regarding SSOs,  
19 thereby avoiding the costs and uncertainties of further litigation;

20 NOW THEREFORE, IT IS HEREBY STIPULATED and agreed to by and between  
21 the parties that NCRW’s claims regarding SSOs as they are specifically defined herein and as  
22 set forth in the Notice, Supplemental Notice, and Complaint be dismissed with prejudice.  
23 The parties respectfully request an order from this Court dismissing such claims with  
24 prejudice.

1 DATED: June 1 , 2005

/s/

2 JACK SILVER, Esq.  
3 Attorney for Plaintiff  
NORTHERN CALIFORNIA RIVER WATCH

4  
5  
6 DATED: June 1, 2005

/s/

7 Nicole E. Granquist, Esq.  
8 Attorney for Defendant  
CITY OF SANTA ROSA

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11  
12 **ORDER**

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14 Good cause appearing, and the parties having stipulated and agreed,

15 **IT IS SO ORDERED** that Plaintiff NCRW's claims regarding SSOs as set forth in the  
16 Notice, Supplemental Notice, and Complaint be and hereby are dismissed with prejudice.  
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19 DATED: June 2, 2005

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21 WILLIAM H. ALSUP, JUDGE  
22 U.S. DISTRICT COURT  
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